

TENTATIVE RULINGS for CIVIL LAW and MOTION

April 8, 2010

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Eight: (530) 406-6942

TENTATIVE RULING

Case: **American Express Centurion Bank v. Gill**
Case No. CV G 09-1489

Hearing date: **April 8, 2010** **Department Eight** **9:00 a.m.**

Plaintiff's unopposed motion for summary judgment is **GRANTED**. (Code Civ. Proc., § 437c, subd. (b)(1); Undisputed Material Facts 1-10; Declaration of Virginia Taylor ¶¶ 1-12, Exhibits 1 & 2.) Plaintiff met its burden of showing that there is no defense to its cause of action for breach of cardholder agreement.

Plaintiff's request for attorney's fees and costs is **DENIED WITHOUT PREJUDICE**. (Civ. Code, § 1717; Cal. Rules of Court, rules 3.1700 et seq.)

Plaintiff is directed to prepare a formal order consistent with this ruling and in accordance with Code of Civil Procedure section 437c, subdivision (g) and California Rules of Court, rule 3.1312.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

TENTATIVE RULING

Case: **Chase Bank USA, N.A. v. Devaurs**
Case. No. CV G 09-1407

Hearing: **April 8, 2010** **Department Eight** **9:00 a.m.**

Plaintiff's application for judgment pursuant to Code of Civil Procedure section 664.6 is **GRANTED**. (Code Civ. Proc., § 664.6; stipulation for entry of judgment with stay of entry of judgment to provide for installment payments; Declaration of Shwachman.)

Plaintiff's request to vacate dismissal is **DENIED**. The only request for dismissal in the Court's file concerns Doe Defendants 1-10, only, filed on January 6, 2010.

If no hearing is requested, this tentative ruling is effective immediately. Plaintiff shall serve a copy of this ruling on Defendant. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice, except as provided herein, is required.

TENTATIVE RULING

Case: **County Fair Fashion Mall, LLC v. Fireman's Fund Ins. Co.**

Case No. CVCV 09-80

Hearing Date: **April 8, 2010** **Department Eight** **9:00 a.m.**

Cross-Defendants Jeff Davani, individually and dba Poly Help Construction's demurrer to the first amended cross-complaint ("FACC") is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e).) The demurrer was filed late and the FACC states facts sufficient to state the causes action against the cross-defendants.

Cross-Defendants County Fair Fashion Mall, LLC et al.'s demurrer to the FACC is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e).) The FACC states facts sufficient to state the causes action against the cross-defendants.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice, except as provided herein, is required.

TENTATIVE RULING

Case: **In re Petition of California Northern Railroad Company**

Case No. CV PT 10-288

Hearing Date: **April 8, 2010** **Department Eight** **9:00 a.m.**

California Northern Railroad Company's unopposed petition to perpetuate the testimony of Stephen Chastain by taking Mr. Chastain's oral deposition for use in the event an action is subsequently filed in relation to an October 2, 2009, collision is **GRANTED**. (Code Civ. Proc., §§ 2035.010 *et seq.*) Petitioner shall serve a copy of the Court's ruling on Angkasa Sutopo by no later than April 12, 2010.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice, except as provided herein, is required.

TENTATIVE RULING

Case: **Konstantinopoulos v. Tavakoli**

Case No. CV CV 09-558

Hearing Date: **April 8, 2010,** **Department Eight** **9:00 a.m.**

Defendant's motion to continue the trial date is **GRANTED**. (Cal. Rules of Court, rule 3.1332.) Defendant made an affirmative showing of good cause for the continuance of the trial date.

Defendant's motion to file a cross-complaint is **GRANTED**. (Code Civ. Proc §§ 425.60 et seq.; *Foot's Transfer & Storage Co. v. Superior Court* (1980) 114 Cal.App.3d 897, 902-903.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.